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13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 KARI HAMILTON, an individual

16 Case No.:

17 Plaintiff,

18 vs.

19 PLUSFOUR, INC, a Nevada corporation,

20 **CLASS ACTION COMPLAINT FOR**
21 **VIOLATIONS OF THE FAIR DEBT**
22 **COLLECTION PRACTICES ACT**

23 Defendant.

24 **JURY DEMANDED**

25 **COMPLAINT**

26 Plaintiff, KARI HAMILTON (hereinafter referred to as “PLAINTIFF”) by and through
27 the undersigned attorney, alleges upon knowledge as to herself and her own acts, and upon
28 information and belief as to all other matters,, brings this complaint against the above-named
defendant and in support thereof alleges the following:

29 **PRELIMINARY STATEMENT**

30 1. PLAINTIFF brings this action on her own behalf and on behalf of all others
31 similarly situated for actual and statutory damages arising from Defendant’s violations of the
32 Fair Debt Collection Practices Act (hereinafter referred to as the “FDCPA”), 15 U.S.C. § 1692,
33 *et seq.*, and Nevada Revised Statutes.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331, and supplemental jurisdiction exists for the state law claims under 28 U.S.C. § 1337.

3. Venue in this District is proper because PLAINTIFF and DEFENDANT reside and/or do business in the District of Nevada. Venue is also proper in this district because the acts and transactions that give rise to this action occurred, in substantial part, in the District of Nevada.

PARTIES

4. PLAINTIFF is a natural person who resides in Nevada.

5. PLAINTIFF is a "consumer" as defined in the FDCPA at 15 U.S.C. § 1692a(3).

6. PLAINTIFF allegedly owes (past due) consumer debt as defined by 15 U.S.C. § 1692a(5) and NRS § 649.010.

7. PLUSFOUR, INC (hereinafter referred to as "DEFENDANT") is a Nevada corporation, the principal purpose of whose business is the collection of debts.

8. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT regularly collects or attempts to collect consumer debts owed or due or asserted to be owed or due another and that the DEFENDANT is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

STATEMENT OF FACTS

9. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1 through 8 inclusive, above.

10. DEFENDANT has contacted PLAINTIFF in an attempt to collect an alleged consumer debt from PLAINTIFF.

11. DEFENDANT has contacted PLAINTIFF via telephone in an attempt to collect an alleged consumer debt.

12. DEFENDANT has left numerous automated voicemail messages on PLAINTIFF'S telephone.

13. DEFENDANT failed to disclose in the automated voicemail messages of the intent to collect a debt from PLAINTIFF.

14. DEFENDANT has contacted PLAINTIFF repeatedly with the intent to harass PLAINTIFF.

15. As a result of the acts and omissions of the DEFENDANT, PLAINTIFF has been forced to hire counsel to prosecute this action and to incur attorney fees and costs

16. PLAINTIFF is informed and believes and therefore alleges that PLAINTIFF may have suffered damages in other ways and to other extents not presently known to PLAINTIFF, and not specified herein. PLAINTIFF reserve the right to assert additional facts and damages not referenced herein, and/or to present evidence of the same at the time of trial.

FIRST CLAIM FOR RELIEF

**BROUGHT BY PLAINTIFF ON BEHALF OF HERSELF AND
ALL SIMILARLY SITUATED PERSONS FOR
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692(d)**

17. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1 through 16 inclusive, above.

18. Section 1692d of the FDCPA states in pertinent part:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

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(6) ... the placement of telephone calls without meaningful disclosure of the caller's identity.

19. DEFENDANT'S automated voicemail messages do not disclose the caller's identity as required by 15 U.S.C. § 1692d.

20. Upon information and belief, PLAINTIFF alleges that DEFENDANT is responsible for additional violations of the FDCPA and reserves the right to amend this complaint to reflect such allegations prior to the time of trial.

21. As a result of the FDCPA violations by DEFENDANT, PLAINTIFF is entitled to statutory damages plus actual damages to be shown specifically at the time of trial.

22. It has been necessary for PLAINTIFF to obtain the services of an attorney to pursue this claim and PLAINTIFF is entitled to recover reasonable attorneys' fees therefore.

SECOND CLAIM FOR RELIEF

**BROUGHT BY PLAINTIFF ON HER OWN BEHALF FOR
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692(e)**

23. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1 through 22 inclusive, above.

24. Section 1692(e) of the FDCPA states in pertinent part:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(2) The following section contains

(2) The false representation of –

- (A) the character, amount, or legal status of any debt; or
- (B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.

(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication

is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

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25. DEFENDANT falsely represented the character, amount, and/or legal status of PLAINTIFF'S alleged debt.

26. DEFENDANT failed to provide the disclosures as required by 15 U.S.C. § 1692e(11).

27. Upon information and belief, PLAINTIFF alleges that DEFENDANT is responsible for additional violations of the FDCPA and reserves the right to amend this complaint to reflect such allegations prior to the time of trial.

28. As a result of the FDCPA violations by DEFENDANT, PLAINTIFF is entitled to statutory damages plus actual damages to be shown specifically at the time of trial.

29. It has been necessary for PLAINTIFF to obtain the services of an attorney to pursue this claim and PLAINTIFF is entitled to recover reasonable attorneys' fees therefore.

DEMAND FOR JURY TRIAL

30. Please take notice that PLAINTIFF demands trial by jury in this action.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF respectfully prays that this Court grant the following relief in PLAINTIFF'S favor and that judgment be entered against DEFENDANT for the following:

- (1) For actual damages incurred by PLAINTIFF pursuant to 15 U.S.C. § 1692k(a)(1);
- (2) For statutory damages awarded to PLAINTIFF, not to exceed \$1000, pursuant to 15 U.S.C. § 1692k(a)(2)(A);

- (3) For reasonable attorney fees for all services performed by counsel in connection with the prosecution of these claims;
- (4) For reimbursement for all costs and expenses incurred in connection with the prosecution of these claims; and
- (5) For any and all other relief this Court may deem appropriate.

DATED this 27 day of December 2011.

THE BOURASSA/LAW GROUP, LLC

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